

Chelsea M. Watson

From: Open Records Request
Sent: Friday, July 12, 2019 10:42 AM
To: Chelsea M. Watson; Linda Nucal
Cc: James Harrison
Subject: FW: [External] Texas Public Information Act Request: Texas police data (Mesquite Police Department)

Please find attached open records request and confirm receipt.

Thanks, Keely

From: 77207-74678195@requests.muckrock.com <77207-74678195@requests.muckrock.com>
Sent: Friday, July 12, 2019 10:22 AM
To: Open Records Request <openrecords@cityofmesquite.com>
Subject: [External] Texas Public Information Act Request: Texas police data (Mesquite Police Department)

Mesquite Police Department
Texas Public Information Act Office
P.O. Box 850137
Mesquite, TX 75185-0137

July 12, 2019

To Whom It May Concern:

Pursuant to the Texas Public Information Act, I hereby request the following records:

1. The total number of police use of force incidents, broken down by type of force used, between 2013-2018 (separated by year).
2. The total number of people that police used force against, between 2013-2018 (separated by year).
3. A copy of all complaints reported by civilians against police between 2013-2018.
4. A copy of any documents indicating whether the civilian complaints identified in request #3 were sustained.
5. The policy manual of the police department.
6. The current union contract between the city and any police unions or police associations.
7. All records regarding police shootings (including fatal police shootings, non-fatal police shootings and police shootings at a civilian that missed) between 2013-2018, including incident-level information specifying the date of each incident, race and gender of all subjects involved, what weapon if any they were armed with, any injuries or deaths resulting from the incident, the names of all officers involved, whether administrative investigations found the incidents to be justified under police department policy and any disciplinary actions taken against the officers as a result of the incident.
8. All records regarding civilian deaths or serious injuries resulting from police use of force between 2013-2018, including incident-level information specifying the date of each incident, race and gender of all subjects involved, what weapon if any they were armed with, any injuries or deaths resulting from the incident and the names of all officers involved.

MESQUITE

T E X A S.

Real. Texas. Flavor.

Office of the City Attorney

July 26, 2019

The Honorable Ken Paxton
Attorney General of Texas
P.O. Box 12548, Capitol Station
Austin, TX 78711-2548

COPY

VIA REGULAR MAIL

Re: Determination of availability of information requested
under the Public Information Act by Samuel Sinyangwe

Dear General Paxton:

The City of Mesquite, Texas (the “City”) has received a request for information (“the request”) under Chapter 552 of the Government Code, also known as the Public Information Act (the “Act”) from Samuel Sinyangwe (“Requestor”). Requestor is seeking a copy of various records regarding use of force, civilian complaints on officers, the Mesquite Police Department’s policy manual, the contract between the City and the Mesquite Police Association, and officer involved shootings. Only the enclosed complaints (the “record(s)”) are believed to contain information which must be submitted to your office for a determination.¹

A copy of the request that was received by the City on July 12, 2019 is attached. SEE EXHIBIT #1. Also attached, in compliance with Section 552.303 of the Act, are copies of the record(s) submitted hereby for your consideration. SEE EXHIBITS #2 - #4. The City seeks a determination from your office as to whether or not the enclosed record(s) are subject to an exception from disclosure. Requestor will be provided a copy of this letter by deposit in the United States mail on this date.

¹ The remaining records responsive to this request, which does not contain information subject to an exception, will be released to the Requestor under separate cover along with a copy of The Mesquite Police Department’s Policy Manual, which contains information which can be redacted in accordance with previous determinations. See OR2018-11193 and OR2019-14079.

David L. Paschall, City Attorney

Paula A. Anderson Cynthia H. Steiner Ileana Fernandez Karen Strand Detra G. Hill Cody McCullar
Attorneys

P.O.Box 850137

• Mesquite, TX 75185-0137

• 972.216.6272

SinyangweS.AG Pg.1
• 972.216.6442

The Court, in *City of San Antonio v. Texas Attorney General*, 851 SW 2nd 946 (Tex. App. – Austin 1993, writ denied), held that information maintained by a city fire department for its own use under section 143.089(g) of the Local Government Code is deemed confidential and not subject to compelled disclosure for Open Records purposes. The internal department files maintained by MPD are maintained pursuant to section 143.089(g) for internal use by the department and are therefore confidential. As stated by the Court in the *City of San Antonio* case,

the legislature intended to deem confidential the information maintained by the City police or fire department for its own use under subsection (g). There appears no other reasonable explanation for the explicit prohibition and directive that regulates the files: “the department *may not release* information kept in such a file; and [t]he department shall *refer to the director* any person requesting information contained in such a file.

Thus, the City contends that all of the enclosed record(s) are contained in the MPD’s internal file and are the types of records described in subsection 143.089(g), which a Police Department is permitted by Chapter 143 to maintain for its own internal use, but prohibited from releasing to the public (in their entirety), instead requiring the Department to refer requestors of such information to the civil service director. SEE EXHIBITS #2 - #4.

Confidentiality Exception for Information Protected Under the Family Code

In the alternative, should your office determine that the above exception does not apply to the enclosed record(s), the City contends that one of the Complaint Forms located in the submitted record(s) is exempt from disclosure pursuant to Texas Government Code, Section 552.101, also known as the confidentiality exception. Section 552.101 provides as follows:

Information is excepted from the requirements of Section 552.021 if it is information considered to be confidential by law, either constitutional, statutory, or by judicial decision.

The submitted record(s) includes a complaint that regards suspected abuse or neglect to a child. The Family Code provides that such information is confidential. Section 552.101 encompasses section 261.201(a) of the Family Code, which states:

- (a) The following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:
 - (1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

Thank you for your consideration in this matter. Please let me know if you require additional information.

Yours truly,



Karen Strand
Senior Assistant City Attorney

EXHIBITS: #1 - #4

cc: MuckRock News
Attn: Samuel Sinyangwe
DEPT MR 77207
411A Highland Avenue
Somerville, Maine 02144-2516
w/out attachments